



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.28197 & 30546 of 2008

and

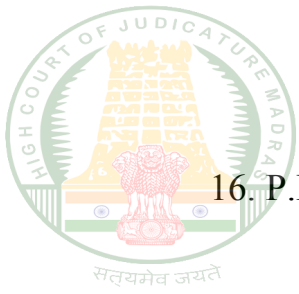
W.P.No.1525 of 2009

and

W.M.P.No.27421 of 2018

W.P.No.28197 of 2008

1. P.Kumaran
2. D.Damodaran
3. R.Narendran
4. S.Murugesan
5. R.Thangaraj
6. J.Gopi
7. M.Pavazhakannan
8. S.Sivakumar
9. S.Lalbahadur
10. J.Sam Erwin
11. D.Diwakar
12. G.Ramesh Kumar
13. S.Mariappan
14. C.Ayyasamy
15. C.Thilipan



16. P.Rajendra Prasad

... Petitioner(s)

Vs.

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1. The Government of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St. George, Chennai – 600 009.

2. Engineer-in-Chief (WRO) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.

3. P.B.Mohan

4. S.Velanatharaj

5. V.Senthilkumar

6. R.Manoharan

7. J.Hariharan

... Respondent(s)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the issue of the proceedings of the second respondent in Proceedings No.S2(2) 32684/2007-4/ dated 29.05.2008 and in Proceedings No.EIV(3)/ 76285/90CR(20) dated 19.06.1990 available on the file of the second respondent and also pertaining to the issue of the Government Letter (Ms) No.1159, Public Works Department Secretariat dated 04.06.1990 available on the file of the first respondent and quash the same and any/ all further proceedings issued pursuant thereto and direct the respondents 1 and 2 to



revert the respondents 3 to 7 to the post of Junior Engineer and consequently revise the seniority of the Assistant Engineers, Assistant Executive Engineer and Executive Engineers.

For Petitioner(s) : Mr.N.Subramanian

For R1 & R2 : Mr.Haja Nazirudheen,
Additional Advocate Pleader
assisted by Mr.V.Nanmaran,
Additional Government Pleader

For R3 to R7 : Mr.S.Namasivayam

W.P.No.30546 of 2008

P.Kumaran ... Petitioner(s)

Vs.

1. The Government of Tamil Nadu, Represented by its Secretary,
Public Works Department, Fort St. George, Chennai – 600 009.

2. Engineer-in-Chief (WRO) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.

3. V.C.Prabakaran ... Respondent(s)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the issue of the proceedings of the second respondent in Proceedings No.S2(2)/49168/2005/ dated 26.05.2008 on the file of the second respondent



and quash the same and any/ all further proceedings issued pursuant thereto and direct the respondents 1 and 2 to revert the third respondent to the post of Junior Engineer and consequently to revise the seniority of the Assistant Engineers.

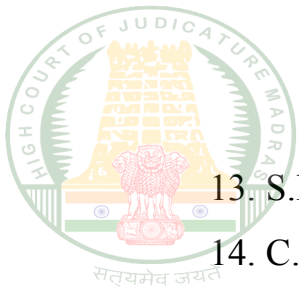
For Petitioner(s) : Mr.N.Subramanian

For R1 & R2 : Mr.Haja Nazirudheen,
Additional Advocate Pleader
assisted by Mr.V.Nanmaran,
Additional Government Pleader

For R3 : Mr.S.Namasivayam

W.P.No.1525 of 2009

1. P.Kumaran
2. D.Damodaran
3. R.Narendran
4. S.Murugesan
5. R.Thangaraj
6. J.Gopi
7. M.Pavazhakannan
8. S.Sivakumar
9. S.Lalbahadur
10. J.Sam Erwin
11. D.Diwakar
12. G.Ramesh Kumar



13. S.Mariappan

14. C.Ayyasamy

15. C.Thilipan

16. P.Rajendra Prasad

... Petitioner(s)

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St. George, Chennai – 600 009.

2. Engineer-in-Chief (WRO) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.

3. R.Sekar

4. R.Venkatachalam

5. K.Kaliamoorthy

6. S.Chockalingam

7. G.Gunaseelan

8. K.Gurusamy

9. N.Gopalakrishnan

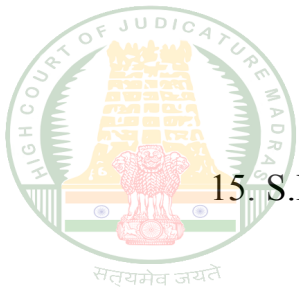
10. P.Sundaram

11. V.Pitchamuthu

12. R.Jaisankar

13. R.Selvam

14. G.Annamalai



15. S.Murugesan

... Respondent(s)

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to G.O.Ms.No.293, Public Works (B2) Department, dated 06.08.2002 available on the file of the first respondent and quash the same and any all further proceedings issued pursuant thereto and accordingly, direct the respondents 1 and 2 to revert the respondents 3 to 15 to the category of Junior Engineers or to direct the respondents to reckon the seniority of respondents 3 to 15 in the category of Assistant Engineer only from the actual date of issue of the order of appointment as Assistant Engineer by recruitment by transfer made after preparing a panel as per Rule 4(a) of the General Rules of Tamil Nadu State and Subordinate Service Rules and to revise the seniority of Assistant Engineers.

For Petitioner(s) : Mr.N.Subramanian

For R1 & R2 : Mr.Haja Nazirudheen,
Additional Advocate Pleader
assisted by Mr.V.Nanmaran,
Additional Government Pleader

For R3 to R15 : No appearance

COMMON ORDER

The issue that arise for consideration in all these three writ petitions is one and the same, and as such, they are taken up for consideration together



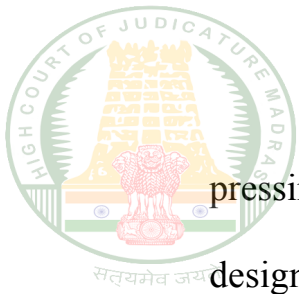
and are being disposed of by this common order.

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2. Heard Mr.N.Subramanian, learned counsel for the petitioners, Mr.Haja Nazirudheen, learned Additional Advocate Pleader assisted by Mr.V.Nanmaran, learned Additional Government Pleader, appearing for the respondents 1 and 2 and Mr.S.Namasivayam, learned counsel for the private respondents.

3. W.P.No.28197 of 2008 and W.P.No.1525 of 2009 are filed by the very same petitioners and whereas, W.P.No.30546 of 2006 has been filed by the first petitioner in other two writ petitions.

4. In W.P.No.28197 of 2008, the petitioners have challenged the proceedings bearing No.S2(2)/32684/2007-4 dated 29.05.2008, issued by the second respondent and two other proceedings bearing Letter No. (Ms) 1159 P.W, dated 04.06.1990 and Proc.No.EIV (3)/76285/90CR(20) dated 19.06.1990, issued by the respondents 1 and 2 respectively. Insofar as the proceedings dated 04.06.1990 and 19.06.1990 are concerned, the learned counsel for the petitioners at the outset submitted that the petitioners are not



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pressing the challenge to the said proceedings, as the third respondent was re-designated as 'Assistant Engineer' much prior to the year 1985, on acquiring B.E., Degree. Through the impugned proceedings dated 29.05.2008, respondents 4 to 7 in W.P.No.28197 of 2008 were granted the benefit of 're-designation' as 'Assistant Engineer' from the date next to the date of their joining as 'Junior Engineer', without any conditions i.e., with effect from 22.08.1997, 02.08.1997, 31.07.1997 and 31.07.1997 respectively. Whereas all the petitioners herein are the persons who were appointed as 'Assistant Engineer' by direct recruitment during the year 1999 through the Tamil Nadu Public Service Commission. As the interest and seniority of the petitioners herein are adversely affected by virtue of the impugned proceedings dated 29.05.2008, the petitioners have challenged the same by filing the present writ petitions.

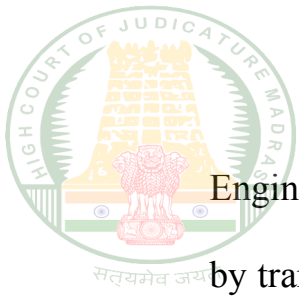
5. Insofar as W.P.No.30546 of 2008 is concerned, an identical benefit was conferred on the third respondent through impugned proceedings No.S2(2)/49168/2005 dated 26.05.2008, issued by the second respondent therein.



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6. Then, coming to W.P.No.1525 of 2009, the petitioners have challenged the impugned Government Order issued in G.O (Ms) No.293, Public Works B(2) Department, dated 06.08.2002, whereby the Government in exercise of its power under Rule 48 of the Tamil Nadu State and Subordinate Service Rules, relaxed the provisions in Rule 5 of the Special Rules for the Tamil Nadu Engineering Services and re-designated '13 Junior Engineers', who are arrayed as respondents 3 to 15 herein, as 'Assistant Engineers' from the date of completion of their probation in the post of 'Junior Engineer', thereby the respondents 3 to 15 became 'Assistant Engineers' during the years 1994-2000 i.e., prior to the date of appointment of the petitioners to the post of 'Assistant Engineer' by direct recruitment during the year 1999. Thus, the interest of the petitioners is also adversely affected because of the condition of re-designation granted in favour of the respondents 3 to 15 herein. Hence, the petitioners challenged the re-designation of the respondents 3 to 15 as 'Assistant Engineers', who are governed by the Special Rules for the Tamil Nadu Engineering Services under Section 10 of the Tamil Nadu Services Manual Volume II.

7. In terms of the above said Special Rules, the post of 'Assistant



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Engineer' can be filled only by way of 'direct recruitment' or by 'recruitment by transfer' from the Tamil Nadu Engineering Service. The petitioners herein are persons who were appointed by 'direct recruitment' and whereas, the private respondents in all the writ petitions are the persons, who were initially appointed as 'Junior Engineers' basing upon the 'Diploma qualification' possessed by them. Through the impugned orders in W.P.Nos.28197 and 30546 of 2006, the private respondents were re-designated as 'Assistant Engineers' from the date next to the date of their joining as 'Junior Engineers'. All the private respondents in these two writ petitions have acquired B.E., Degree much prior to their appointment to the post of 'Junior Engineer' under the Tamil Nadu Engineering Sub-ordinate Service. The qualifications that are prescribed for appointment by 'recruitment by transfer' to the post of 'Assistant Engineer' under Rule 5 of the Special Rules for the Tamil Nadu Engineering Service mandates that, in order to be eligible for 'recruitment by transfer' from the post of 'Junior Engineer' etc., to the post of 'Assistant Engineer' in the Tamil Nadu Engineering Services, one must have acquired the qualifications prescribed for 'recruitment by transfer' after entering service as 'Junior Engineer'. One such qualification is degree in 'Civil Engineering'. From this itself, it is evident that, it is only in cases where



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the Junior Engineer acquires the degree in 'Civil Engineering', after entering the service as 'Junior Engineer', is eligible for being appointed by 'recruitment by transfer' to the post of 'Assistant Engineer'. The private respondents in these two writ petitions have admittedly acquired the degree in 'Civil Engineering/ B.E.,' much prior to their appointment as 'Junior Engineer'. If that be the case, all the private respondents in these two writ petitions are not eligible to be considered for 'recruitment by transfer' to the post of 'Assistant Engineer'. However, through the impugned proceedings in these two writ petitions, the private respondents were re-designated as 'Assistant Engineers' from the date next to the date of their declaration of probation as 'Junior Engineer', though they are not satisfying the requirement of the Special Rules for the Tamil Nadu Engineering Services for the post of 'Assistant Engineer' by recruitment by transfer.

8. Be that as it may, the procedure that is provided under Rule 2 of the Special Rules for the Tamil Nadu Engineering Services makes it clear that the post of 'Assistant Engineer' can only be filled up by 'direct recruitment' or by 'recruitment by transfer'. There is no provision providing for re-designation of a 'Junior Engineer' working in the Tamil Nadu Engineer Subordinate Service



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as an 'Assistant Engineer' in the Tamil Nadu Engineering Services. But, without there being any provision of law, providing for such re-designation the respondents 1 and 2, taking advantage of the Rule that was prevailing prior to 11.09.1985, which provided for re-designation of 'Junior Engineers' as 'Assistant Engineers', proceeded to issue the impugned proceedings re-designating the private respondents as 'Assistant Engineers' with retrospective effect. By virtue of the impugned proceedings, the petitioners who were appointed as 'Assistant Engineers' by way of 'direct recruitment' through the Tamil Nadu Public Service Commission during the year 1999, were affected in the matter of their seniority adversely. Further, the impugned proceedings were issued behind the back of the petitioners, without affording any opportunity, adversely affecting their interest. In the light of the above, both these impugned proceedings does not have any legal basis or backing of any rule position and therefore they are liable be quashed.

9. Then coming to W.P.No.1595 of 2007, wherein the orders issued by the Government in G.O (Ms) No.293, Public Works (B2) Department, dated 06.08.2002 are challenged.



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10. Though, Mr.N.Subramanian, learned counsel appearing for the petitioners, made submissions contending that the recruitment rules cannot be relaxed in exercise of the general powers under Rule 48 of the General Rules in Part II of the Tamil Nadu State and Sub-ordinate Service Rules while placing reliance on various decisions of the Hon'ble Apex Courts, this court does not see any reason to go into that aspect in the present case.

11. In terms of the impugned Government Order, the Government only relaxed the provision in Rule 5 of the Special Rules for the Tamil Nadu Engineering Services and thereby re-designated the private respondents 3 to 15 herein, who were working as 'Junior Engineers' from the date of completion of their probation in the post of 'Junior Engineer' and consequently, respondents 3 to 15 were re-designated as 'Assistant Engineer' on various dates during the years 1994-2000.

12. Rule 2 of the Special Rules for the Tamil Nadu Engineering Service, provides for the 'method of recruitment'. Under the impugned Government Order, Rule 2 is not relaxed. What is relaxed is only Rule 5. Therefore, even after Rule 5 which prescribes only qualification is relaxed, in



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the absence of any relaxation of Rule 2, the procedure that is required to be followed for filling up the post of 'Assistant Engineer' i.e., 'recruitment by transfer' is required to be followed by the respondents 1 and 2 in order to appoint respondents 3 to 15 as 'Assistant Engineer'. But what is done through the impugned Government Order is merely the re-designation of '13 Junior Engineers' as 'Assistant Engineers' during the years 1994-2000 i.e., after 11.09.1985. In the absence of any Rule providing for appointment by re-designation and in the absence of relaxation of Rule 2 of the Special Rules, the re-designation of respondents 3 to 15 as 'Assistant Engineers' is contrary to the Statutory Rules. On this ground alone, the impugned Government Order is liable to be struck down.

13. Even assuming that the benefit of re-designation extended in favour of the respondents 3 to 15 is treated as 'recruitment by transfer' under Rule 2(a)(5) of the Special Rules, the candidates appointed as 'Assistant Engineer' by 'recruitment by transfer' on acquiring the degree qualification, in terms of Clause (e) of Rule 2 of the Special Rules, they shall take rank below the last 'Assistant Engineer' in the list of candidates selected by the Tamil Nadu Public Service Commission in that calendar year. The said Clause (e) of Rule



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2 reads as under:-

“(e) The candidates appointed as Assistant Engineers by recruitment by transfer on acquiring degree qualification shall be assigned rank below the last Assistant Engineer in the list of candidates selected by the Tamil Nadu Public Service Commission in that calendar year. If no selection has been made by Tamil Nadu Public service Commission to the category of Assistant Engineers in the calendar year, the Assistant Engineer so re-designated shall be assigned rank below the last Assistant Engineer in the list last communicated. For this purpose, the date of communication of the list by Tamil Nadu Public Service Commission shall be the criterion to decide the calendar year to which the list belongs. The concurrence of the Tamil Nadu Public Service Commission shall not be necessary for such an appointment.”

14. If this rule is applied in its strict sense, even if the benefit of re-designation conferred upon respondents 3 to 15 is allowed to stand also, the respondents 3 to 15 are bound to be placed below the list of 'Assistant Engineer' in the list of candidates selected by the Tamil Nadu Public Service Commission; and in the absence of any selection in that calendar year, they shall take rank below the last Assistant Engineer in the list last communicated of such appointees. The petitioners herein are persons who were selected and appointed through the Tamil Nadu Public Service Commission during the year 1999. As the impugned Government Order came to be issued only on 06.08.2002, all the respondents 3 to 15 shall take rank below the petitioners



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herein or below the list of candidates who were selected by the Tamil Nadu Public Service Commission on or before 06.08.2002. Therefore, even if the case of the respondents 3 to 15 is considered and they are extended the benefit of the impugned order, their entitlement for re-designation as 'Assistant Engineer' can only take effect from the date of the said order, i.e., 06.08.2002, and they are not entitled to the retrospective benefit of re-designation or appointment to the post of 'Assistant Engineer' for the Tamil Nadu Engineering Service.

15. Though Mr.Haja Nazirudheen, learned Additional Government Pleader strenuously contended that the 'calendar year' referred in Rule 2(a)(5) is to be construed with reference to the year in which the probation of respondents 3 to 15 herein was declared and that they are entitled to be placed below the list of candidates selected by the Tamil Nadu Public Service Commission during the respective year of declaration of their probation, this court is unable to accept the said contention, as there is no scope provided under Rule 2(a)(5) to confer the benefit of retrospective appointment either by 'recruitment by transfer' or by re-designation etc., In the circumstances, the contention of the learned Additional Advocate General is liable to be



rejected.

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W.P.Nos.28197 & 30546 of 2008 and 1525 of



16. In the light of the above, the impugned order dated 29.05.2008 in W.P.No.28197 of 2008 is liable to be quashed to the extent of conferring the retrospective benefit of re-designation as 'Assistant Engineer' in favour of respondents 4 to 7. Accordingly, the impugned orders dated 29.05.2008 and 26.05.2008 in W.P. No.28197 of 2008 and W.P.No.30456 of 2008 respectively are hereby quashed to the extent of conferring the retrospective benefit of re-designation, and it is declared that the respective private respondents are entitled to re-designation as 'Assistant Engineer' only from the date of issuance of the respective proceedings.

17. Insofar as the impugned Government G.O (Ms) No.293, Public Works (B2) Department, dated 06.08.2002 in W.P.No.1525 of 2009 is concerned, the same in the light of the above discussion, the same is hereby quashed to the extent of conferring the retrospective benefit of re-designation on respondents 3 to 15 as 'Assistant Engineers', and it is declared that the benefit of re-designation is available to the respondents 3 to 15 only from the date of issuance of the said Government Order i.e., 06.08.2002.



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18. Accordingly, all the writ petitions are **allowed** to the extent indicated above and consequently the respondents are hereby directed to revise the seniority list in the cadre of Assistant Engineer and extend all consequential benefits to the petitioners. However, it is made clear that in case, if any of the private respondents have already retired from service, their terminal benefits etc., shall not be affected by this order. No costs. Connected miscellaneous petitions, if any, shall stand closed.

17.07.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
Public Works Department, Fort St. George, Chennai – 600 009.
2. Engineer-in-Chief (WRO) & Chief Engineer (General),
Public Works Department, Chepauk, Chennai – 600 005.



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W.P.Nos.28197 & 30546 of 2008 and 1525 of



MUMMINENI SUDHEER KUMAR, J.

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W.P.Nos.28197 & 30546 of 2008
& W.P.No.1525 of 2009



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17.07.2025